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CSB 73-615

14 November 1973

MEMORANDUM FOR: C/OF/C&TD

SUBJECT : Federal Income Tax Withholdings from Amounts
Due Deceased Employees

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25X1A 1. Pursuant to a telephone conversation between [redacted] (C&TD), [redacted] and the undersigned, it was determined that this office would review the procedures used by C&TD for issuing tax documentation representing payments made to beneficiaries for unpaid compensation due a deceased employee. Currently C&TD does not withhold Federal income tax from the unpaid compensation (salary, lump sum leave, etc.), and a Form 1099 is issued to the beneficiary to whom the payment is made. In reviewing the Treasury Fiscal Requirements Manual (Chapter 3000), the GAO Manual for Guidance of Federal Agencies (Chapter 3), and the IRS Code (Section 4934, 1585), we have found the current procedure to be in general compliance with all of these regulations.

2. The Treasury Fiscal Requirements Manual states, in part, that the unpaid compensation, including unused annual leave is not subject to Federal income tax withholding. The GAO Manual states that the IRS has ruled that no withholding should be made for income tax from the unpaid salary and lump sum leave due a decedent. In reviewing the IRS Code, we find it to be in agreement with the other sources to the extent that it states, in part: "The Internal Revenue Service holds that when unpaid compensation is owing to a decedent employee, to his estate or to his beneficiaries, withholding for income tax purposes is not required when payment is made." It is important to note that IRS states only that income tax withholding is not required; however, they do not prohibit an employer from withholding income tax from these payments.

3. Although the income stated above is technically "not subject to withholding", we suggest that, in those cases where the payment is made to the spouse of a deceased employee, Federal income taxes be withheld. As the unpaid compensation is taxable income to the beneficiary, any ultimate tax liability will have to be satisfied at the time the beneficiary files the tax return for the year in which the unpaid compensation is received. To effect an income tax withholding at the source would tend to ease somewhat the financial hardship imposed upon the deceased employee's spouse by relieving the spouse of the need to render the necessary funds to satisfy any ultimate tax liability.

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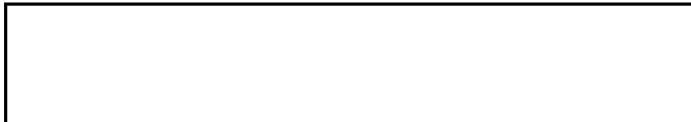
4. While it is recognized that not all cases where tax is not withheld from the unpaid compensation would create a financial hardship, it is not suggested that the onus be on your office to determine when or when not to withhold Federal income tax. In conjunction with this, we propose that the Benefits and Services Division (OP/BSD) obtain a signed statement from the deceased employee's spouse, authorizing the withholding of Federal income taxes from the unpaid compensation. Attached is a copy of the proposed statement that would be obtained.

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Attachment
Proposed Statement

CONCUR:



21 Nov 73
Date

cc: ☒ OGC
OP/BSD

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Attachment to Memo 73-615, 14 November 1973
Subject: Federal Income Tax Withholdings from Amounts Due Deceased Employees

Proposed Statement

I hereby authorize the appropriate payroll office to withhold Federal income tax from any payments due to me which are considered to be taxable unpaid compensation. I understand that, in accordance with U.S. Internal Revenue Service regulations, an employer is not required to withhold Federal income tax from these payments, ~~and that~~ This form may be used as ^{EVIDENCE} ~~proof~~ of my ^{AUTHORIZATION} ~~authority~~ to withhold the tax.

Signature

Date